HONORABLE JAMES L. ROBART 1 2 3 4 5 6 7 IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WASHINGTON 8 AT SEATTLE 9 MICROSOFT CORPORATION, a 10 Case No. 10-1823 Washington corporation, 11 DECLARATION OF SHANE P. Plaintiff, CRAMER IN SUPPORT OF 12 MICROSOFT'S OPPOSITION TO DEFENDANTS' RENEWED MOTION VS. 13 TO DISMISS 14 MOTOROLA, INC., MOTOROLA MOBILITY, INC., and GENERAL Noted: Friday, April 1, 2011 15 INSTRUMENT CORPORATION, 16 **Defendants** 17 I, Shane P. Cramer, hereby declare as follows: 18 I am an attorney at the law firm of Danielson Harrigan Leyh & Tollefson LLP, 19 and have personal knowledge of the facts stated herein. 20 2. Attached hereto as Exhibit 1 is a true and correct copy of François Leveque and 21 Yann Ménière, Vagueness in RAND Licensing Obligations is Unreasonable for Patent 22 Owners, CERNA Working paper (2009) (available as of January 3, 2011 at 23 http://ssrn.com/abstract=1030520). 24 25 DECLARATION OF SHANE P. CRAMER IN SUPPORT OF MICROSOFT'S OPPOSITION TO LAW OFFICES DEFENDANTS' RENEWED MOTION TO DANIELSON HARRIGAN LEYH & TOLLEFSON LLP 999 THIRD AVENUE, SUITE 4400 DISMISS - 1

SEATTLE, WASHINGTON 98104 TEL, (206) 623-1700 FAX, (206) 623-8717

- 3. Attached hereto as Exhibit 2 is a true and correct copy of Daniel Swanson and William Baumol, Reasonable and Nondiscriminatory (RAND) Royalties, Standards Selection, And Control of Market Power, 73 Antitrust L.J. 1, 21 (2005).
- 4. Attached hereto as Exhibit 3 is a true and correct copy of Defendant Motorola, Inc.'s Answer, Affirmative Defenses, and Counterclaims to Wi-Lan, Inc.'s Third Amended Complaint dated September 18, 2009 (Dkt. No. 63), in the matter of *Wi-Lan v. Research in Motion Corp.*, et al., United States District Court for the Eastern District of Texas, Case No. 2:08-CV-247-TJW.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 28th day of March, 2011, at Seattle, Washington.

SHANE P. CRAMER

DECLARATION OF SHANE P. CRAMER IN SUPPORT OF MICROSOFT'S OPPOSITION TO DEFENDANTS' RENEWED MOTION TO DISMISS - 3

CERTIFICATE OF SERVICE

I hereby certify that on March 28, 2011, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: Philip S. McCune and Lynn M. Engel at Summit Law Group, PLLC.

L Ble

Linda Bledsoe

LAW OFFICES

DANIELSON HARRIGAN LEYH & TOLLEFSON LLP
999 THIRD AVENUE, SUITE 4400
SEATTLE, WASHINGTON 98104
TEL, (206) 623-1700 FAX, (206) 623-8717